

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 398

Introduced by Assembly Members Monning and Chesbro

February 23, 2009

An act to amend Sections 4354, ~~4357, and 4358.5~~ 4354.5, 4357, 4357.1, 4358.5, and 14132.992 of, ~~and to add Section 4354.6 to, to repeal Section 4359 of Sections 4357.2 and 4359 of, and to repeal and add Sections 4355 and 4356 of,~~ the Welfare and Institutions Code, relating to acquired brain trauma.

LEGISLATIVE COUNSEL'S DIGEST

AB 398, as amended, Monning. Acquired brain trauma: administration.

Existing

(1) *Existing* law establishes the State Department of Mental Health and sets forth its powers and duties relating to the administration of programs for the delivery of mental health services, including, but not limited to, establishing the department as the agency responsible for administering a program of services for persons with acquired traumatic brain injury, as defined. *This program provides for a demonstration project for postacute care for adults 18 years of age and older with an acquired traumatic brain injury, including the funding of 4 demonstration project sites, as specified.*

Existing law establishes the Department of Rehabilitation and sets forth its powers and duties relating to rehabilitation services, including,

but not limited to, duties related to the delivery of services for persons with acquired traumatic brain injury.

This bill would remove the State Department of Mental Health as the agency responsible for administering the program of services for persons with acquired traumatic brain injury; *and* would, instead, establish the Department of Rehabilitation as the responsible agency; *and* would delete the existing July 1, 2012, repeal date for these provisions; ~~and would make conforming changes.~~

This bill would delete references to the program as a demonstration project. It would, instead, dependent upon securing sources of funding for the provision of services, require the Department of Rehabilitation to fund an array of services for adults 18 years of age and older with acquired traumatic brain injury and would require the department to determine the requirements for service delivery, uniform data collection, and other aspects of program administration that service providers participating in the program must meet and to monitor and evaluate the performance of those service providers, as specified.

The bill would require service providers to furnish data to the department and would require service providers wishing to continue to participate in the program after July 1, 2013, to comply with additional eligibility requirements specified by the department.

Existing law establishes the Traumatic Brain Injury Fund in the State Treasury, with this fund being available for purposes of the program, upon appropriation by the Legislature. The fund receives moneys from specified fines and penalties.

This bill would allow the department to use the funds in the Traumatic Brain Injury Fund to make grants to service providers for the provision of services, as specified. It would also modify requirements relating to the securing of matching funds.

(2) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. The Medi-Cal program is partially governed and funded by federal Medicaid provisions.

Existing law requires the department, by March 15, 2009, to submit to the federal Centers for Medicare and Medicaid Services a home- and community-based services waiver application or an amendment of the state plan for home- and community-based services, to serve at least 100 adults with acquired traumatic brain injuries who otherwise would

require care in a Medi-Cal funded nursing facility or an intermediate care facility for persons with developmental disabilities.

This bill would, instead, require this waiver to be submitted by March, 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4354 of the Welfare and Institutions Code
2 is amended to read:
3 4354. For purposes of this chapter, the following definitions
4 shall apply:
5 (a) “Acquired traumatic brain injury” is an injury that is
6 sustained after birth from an external force to the brain or any of
7 its parts, resulting in cognitive, psychological, neurological, or
8 anatomical changes in brain functions.
9 (b) “Department” means the State Department of Rehabilitation.
10 (c) “Director” means the Director of Rehabilitation.
11 (d) (1) “Vocational supportive services” means a method of
12 providing vocational rehabilitation and related services that may
13 include prevocational and educational services to individuals who
14 are unserved or underserved by existing vocational rehabilitation
15 services.
16 (2) “Extended supported employment services” means ongoing
17 support services and other appropriate services that are needed to
18 support and maintain an individual with an acquired traumatic
19 brain injury in supported employment following that individual’s
20 transition from support provided as a vocational rehabilitation
21 service, including job coaching, by the department, as defined in
22 paragraphs (1) and (5) of subdivision (a) of Section 19150.
23 (e) The following four characteristics distinguish “vocational
24 supportive services” from traditional methods of providing
25 vocational rehabilitation and day activity services:
26 (1) Service recipients appear to lack the potential for unassisted
27 competitive employment.
28 (2) Ongoing training, supervision, and support services must
29 be provided.

(3) The opportunity is designed to provide the same benefits that other persons receive from work, including an adequate income level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

(f) “Community reintegration services” means services as needed by ~~clients~~ *consumers*, designed to develop, maintain, increase, or maximize independent functioning, with the goal of living in the community and participating in community life. These services may include, but are not limited to, providing, or arranging for access to, housing, transportation, medical care, rehabilitative therapies, day programs, chemical dependency recovery programs, personal assistance, and education.

(g) “Fund” means the Traumatic Brain Injury Fund.

(h) “Supported living services” means a range of appropriate supervision, support, and training in the ~~client’s~~ *consumer’s* place of residence, designed to maximize independence.

(i) “Functional assessment” means measuring the level or degree of independence, amount of assistance required, and speed and safety considerations for a variety of categories, including activities of daily living, mobility, communication skills, psychosocial adjustment, and cognitive function.

(j) “Residence” means the place where a ~~client~~ *consumer* makes his or her home, that may include, but is not limited to, a house or apartment where the ~~client~~ *consumer* lives independently, assistive living arrangements, congregate housing, group homes, residential care facilities, transitional living programs, and nursing facilities.

(k) “Community rehabilitation program” shall have the same meaning as contained in subdivision (5) of Section 705 of Title 29 of the United States Code.

SEC. 2. Section 4354.5 of the Welfare and Institutions Code is amended to read:

4354.5. The Legislature finds and declares both of the following:

~~(a) Ascertaining the number of Californians who survive traumatic brain injuries is difficult, but the best estimates are that there are approximately 225,000 survivors who have sustained “closed” or “open” head injuries.~~

~~(b)~~

1 (a) Traumatic brain injuries have a long-term impact on the
2 survivors, their families, caregivers, and support systems.

3 (e)

4 (b) Long-term care consumers experience great differences in
5 service levels, eligibility criteria, and service availability, resulting
6 in inappropriate and expensive care that fails to be responsive to
7 their needs.

8 ~~(d) California must develop an action plan with a timetable for~~
9 ~~implementation to ensure that there will be an array of appropriate~~
10 ~~services and assistance funded and administered by a state structure~~
11 ~~that has a focus and commitment to integration and coordination.~~

12 ~~(e) The state must pursue, in a timely manner, all available~~
13 ~~sources of federal financial participation, including, but not limited~~
14 ~~to, the medicaid home and community-based services waiver~~
15 ~~program (42 U.S.C. Sec. 1396n(c)) and Part J of Subchapter II of~~
16 ~~the Public Health Service Act (42 U.S.C. Sec. 280b et seq.).~~

17 ~~(f) The department, pursuant to this chapter, has funded and~~
18 ~~demonstrated, successfully, through four projects for a postacute~~
19 ~~continuum-of-care model for adults 18 years of age or older with~~
20 ~~acquired traumatic brain injuries, the array of services and~~
21 ~~assistance that meet the needs of these individuals and their~~
22 ~~families.~~

23 ~~(g) The state shall replicate these models toward developing a~~
24 ~~statewide system that has as a goal the support of existing~~
25 ~~community-based agencies and organizations with a proven record~~
26 ~~of serving survivors of traumatic brain injuries.~~

27 ~~(h) Implementation of the act that added this section shall be~~
28 ~~consistent with the state's public policy strategy to design a~~
29 ~~coordinated services delivery system pursuant to Article 4.05~~
30 ~~(commencing with Section 14139.05) of Chapter 7 of Part 3 of~~
31 ~~Division 9.~~

32 *SEC. 3. Section 4354.6 is added to the Welfare and Institutions*
33 *Code, to read:*

34 *4354.6. (a) To the maximum extent feasible, the department*
35 *shall pursue all available sources of federal financial participation,*
36 *including, but not limited to, the Medicaid home and*
37 *community-based services waiver program (42 U.S.C. Sec.*
38 *1396n(c)) and Part J of Subchapter II of the Public Health Service*
39 *Act (42 U.S.C. Sec. 280b et seq.).*

1 (b) If new sources of funding are secured which will permit
2 expanding the existing Traumatic Brain Injury Program, the
3 department shall fund an array of appropriate services and
4 assistance to adults 18 years of age and older with traumatic brain
5 injuries in those areas of the state with the greatest need.

6 (c) Implementation of the act that added this section shall be
7 consistent with the state's public policy strategy to design a
8 coordinated services delivery system pursuant to Article 4.05
9 (commencing with Section 14139.05) of Chapter 7 of Part 3 of
10 Division 9.

11 SEC. 4. Section 4355 of the Welfare and Institutions Code is
12 repealed.

13 ~~4355. (a) The department shall designate sites in order to~~
14 ~~develop a system of postacute continuum-of-care models for adults~~
15 ~~18 years of age or older with an acquired traumatic brain injury.~~

16 ~~(b) The project sites shall coordinate vocational supportive~~
17 ~~services, community reintegration services, and supported living~~
18 ~~services. The purpose of the project is to demonstrate the~~
19 ~~effectiveness of a coordinated service approach that furthers the~~
20 ~~goal of assisting those persons to attain productive, independent~~
21 ~~lives which may include paid employment.~~

22 ~~(c) Project sites that are authorized to provide home- and~~
23 ~~community-based waiver services pursuant to Section 14132.992~~
24 ~~shall also provide extended supported employment services, as~~
25 ~~defined in paragraph (2) of subdivision (d) of Section 4354.~~

26 SEC. 5. Section 4355 is added to the Welfare and Institutions
27 Code, to read:

28 4355. (a) On or before January 1, 2012, the department shall
29 determine requirements related to service delivery, uniform data
30 collection, and other aspects of program administration, in addition
31 to those specified in Section 4357, that service providers
32 participating in the traumatic brain injury program must meet.
33 This may include, but is not limited to, the following:

34 (1) The department may require that service providers be
35 approved as community rehabilitation programs eligible to serve
36 consumers.

37 (2) Upon approval of the Medicaid waiver sought pursuant to
38 Section 14132.992, the department may require that all service
39 providers do both of the following:

1 (A) Satisfy all applicable eligibility requirements for provision
2 of services under the waiver.

3 (B) Participate in the waiver and provide extended supported
4 employment services, as defined in paragraph (2) of subdivision
5 (d) of Section 4354.

6 (b) On or before January 1, 2013, the department shall do all
7 of the following:

8 (1) Determine the level of funding necessary to permit a service
9 provider to meet all applicable requirements and adequately serve
10 its designated service area.

11 (2) Determine the number of sites that can be supported with
12 available funding.

13 (3) Solicit applications from organizations interested in and
14 qualified to provide services pursuant to this chapter, and select
15 those best qualified to do so, with priority given to applicants that
16 have proven experience in providing effective services to persons
17 with acquired traumatic brain injuries, including, but not limited
18 to, supported living services, caregiver support, and family and
19 community education.

20 (c) The department shall meet periodically with traumatic brain
21 injury service providers for discussion of topics, including, but
22 not limited to, the development and implementation of performance
23 standards and data collection processes, eligibility requirements,
24 program administration, pursuit of funding, implementation of the
25 Medicaid waiver, if approved by the federal government, and
26 refinement of the traumatic brain injury continuum of care.

27 SEC. 6. Section 4356 of the Welfare and Institutions Code is
28 repealed.

29 ~~4356. (a) The department shall provide support to the four~~
30 ~~original pilot sites.~~

31 ~~(b) (1) The department shall award and administer grants to~~
32 ~~four additional sites, to be selected through a competitive bidding~~
33 ~~process. One site shall be within each of the regions listed in~~
34 ~~Section 4357.2. It is the intent of the Legislature that one site be~~
35 ~~located in a rural area. Implementation of new project sites shall~~
36 ~~be contingent upon the availability of funds, and new project sites~~
37 ~~shall be selected on an incremental basis as funds become available.~~

38 ~~(2) Priority shall be given to applicants that have proven~~
39 ~~experience in providing services to persons with an acquired~~
40 ~~traumatic brain injury including, but not limited to, supported~~

1 living services, community reintegration services, vocational
2 support services, caregiver support, and family and community
3 education.

4 (3) The department shall convene a working group, established
5 pursuant to Section 4357.1, to assist them in developing requests
6 for proposals and evaluating bids. In addition, the department shall
7 use this working group as an advisory committee in accordance
8 with requirements of Part J of Subchapter II of the Public Health
9 Service Act (42 U.S.C. Sec. 280b et seq.) in order to pursue
10 available federal funds including, but not limited to, Section
11 300d-52 of Title 42 of the United States Code.

12 (4) Each new site shall be in operation within six months
13 following the grant award.

14 (5) The four additional sites prescribed by this subdivision shall
15 be established to the extent that the availability of federal funds
16 or other appropriate funds permit.

17 (e) (1) The department, with the advice and assistance of the
18 working group, shall develop an independent evaluation and assist
19 sites in collecting uniform data on all clients.

20 (2) The evaluation shall test the efficacy, individually and in
21 the aggregate, of the existing and new project sites in the following
22 areas:

23 (A) The degree of community reintegration achieved by clients,
24 including their increased ability to independently carry out
25 activities of daily living, increased participation in community life,
26 and improved living arrangements.

27 (B) The improvements in clients' prevocational and vocational
28 abilities, educational attainment, and paid and volunteer job
29 placements.

30 (C) Client and family satisfaction with services provided.

31 (D) Number of clients, family members, health and social
32 service professionals, law enforcement professionals, and other
33 persons receiving education and training designed to improve their
34 understanding of the nature and consequences of traumatic brain
35 injury, as well as any documented outcomes of that training and
36 education.

37 (E) The extent to which participating programs result in reduced
38 state costs for institutionalization or higher levels of care, if such
39 an estimate can be obtained within the 10 percent of funds allowed
40 for the evaluation.

1 ~~(3) The department shall expend not more than 10 percent of~~
2 ~~the annual program amount on the evaluation. The evaluator shall~~
3 ~~be chosen by means of competitive bid and shall report to the~~
4 ~~department.~~

5 ~~(4) The evaluator shall make a final report to the Legislature by~~
6 ~~January 1, 2005.~~

7 *SEC. 7. Section 4356 is added to the Welfare and Institutions*
8 *Code, to read:*

9 *4356. Using data collected consistent with requirements*
10 *established pursuant to subdivision (a) of Section 4355, the*
11 *department shall monitor and evaluate the performance of service*
12 *providers.*

13 ~~SEC. 2.~~

14 *SEC. 8. Section 4357 of the Welfare and Institutions Code is*
15 *amended to read:*

16 ~~4357. (a) The sites shall be able to identify the special needs~~
17 ~~and problems of clients and the services shall be designed to meet~~

18 *4357. (a) Service providers shall identify the needs of*
19 *consumers and deliver services designed to meet those needs.*

20 ~~(b) The sites—~~*Service providers* shall match not less than 20
21 percent of the amount granted, with the exception of funds used
22 for mentoring. The required match may be cash or in-kind
23 contributions, or a combination of both, from the sites or any
24 cooperating agency. In-kind contributions may include, but shall
25 not be limited to, staff and volunteer services.

26 ~~(c) The sites—~~*Service providers* shall provide at least 51 percent
27 of their services under the grant to individuals who are Medi-Cal
28 eligible or who have no other identified third-party funding source.

29 ~~(d) The sites—~~*(1) Service providers* shall provide, directly or by
30 arrangement, a coordinated service model to include all of the
31 following:

32 ~~(1)~~

33 *(A) Supported living services.*

34 ~~(2)~~

35 *(B) Community reintegration services.*

36 ~~(3)~~

37 *(C) Vocational supportive services.*

38 ~~(4)~~

1 (D) Information, referral, and, as needed, assistance in
2 identifying, accessing, utilizing, and coordinating all services
3 needed by individuals with traumatic brain injury and their families.

4 ~~(5) (A)~~

5 (E) Public and professional education designed to facilitate early
6 identification of persons with brain injury, prompt referral of these
7 persons to appropriate services, and improvement of the system
8 of services available to them.

9 ~~(B)~~

10 (2) The model shall be designed and modified with advice from
11 ~~clients~~ *consumers* and their families, and shall be accessible to the
12 population in need, taking into account transportation, linguistic,
13 and cultural factors.

14 (e) ~~The sites~~ *Service providers* shall develop and utilize an
15 individual service plan which will allow ~~clients~~ *consumers* to move
16 from intensive medical rehabilitation or highly structured living
17 arrangements to increased levels of independence and employment.
18 The goals and priorities of each ~~client~~ *consumer* shall be an integral
19 part of his or her service plan.

20 (f) ~~The sites~~ *Service providers* shall seek all third-party
21 reimbursements for which ~~clients~~ *consumers* are eligible and shall
22 utilize all services otherwise available to ~~clients~~ *consumers* at no
23 cost, including vocational rehabilitation services provided by the
24 department. However, grantees may utilize grant dollars for the
25 purchase of nonreimbursed services or services otherwise
26 unavailable to ~~clients~~ *consumers*.

27 (g) ~~The sites~~ *Service providers* shall endeavor to serve a
28 population that is broadly representative with regard to race and
29 ethnicity of the population with traumatic brain injury in their
30 geographical service area, undertaking outreach activities as needed
31 to achieve this goal.

32 (h) ~~The sites~~ *Service providers* shall maintain a broad network
33 of relationships with local groups of brain injury survivors and
34 families of survivors, as well as local providers of health, social,
35 and vocational services to individuals with traumatic brain injury
36 and their families. The sites shall work cooperatively with these
37 groups and providers to improve and develop needed services and
38 to promote a well-coordinated service system, taking a leadership
39 role as necessary.

1 (i) Service providers shall furnish uniform data to the
2 department pursuant to subdivision (a) of Section 4355 as
3 necessary to monitor and evaluate the program.

4 (j) Service providers wishing to continue to participate in the
5 program after July 1, 2013, shall, by that date, be in compliance
6 with additional eligibility requirements established by the
7 department pursuant to Section 4355.

8 SEC. 9. Section 4357.1 of the Welfare and Institutions Code
9 is amended to read:

10 ~~4357.1. (a) The department shall convene a working group~~
11 ~~including the following persons as selected by the director:~~

12 ~~(1) A survivor currently using services in the program.~~

13 ~~(2) Two family members of persons surviving traumatic brain~~
14 ~~injuries, one of whom shall be a family member of a person with~~
15 ~~significant disabilities resulting from injuries.~~

16 ~~(3) A representative of the Brain Injury Association of~~
17 ~~California.~~

18 ~~(4) A representative of each of the existing sites.~~

19 ~~(5) A representative of the Caregiver Resource Centers.~~

20 ~~(6) A representative of the California Foundation for~~
21 ~~Independent Living Centers.~~

22 ~~(7) A representative of the Public Interest Center for Long-term~~
23 ~~Care.~~

24 ~~(8) A representative of the California Rehabilitation Association.~~

25 ~~(9) A member from a survivor's organization.~~

26 ~~(10) Representatives of the Department of Rehabilitation and~~
27 ~~the State Department of Health Services and others as determined~~
28 ~~by the director.~~

29 ~~(b) Members of the working group shall participate without~~
30 ~~compensation. The working group may be reimbursed by the~~
31 ~~department for expenses related to the meetings, as determined by~~
32 ~~the director.~~

33 ~~(c) The department shall consult with the working group on the~~
34 ~~following, as determined by the director:~~

35 ~~(1) Development of the evaluation instrument and plan.~~

36 ~~(2) Selection and development of the four new sites.~~

37 ~~(3) Progress reports and input from participating state or local~~
38 ~~agencies and the public.~~

39 ~~(4) Project implementation, achievements, and recommendations~~
40 ~~regarding project improvement.~~

~~(5) Development of recommended strategies and guidelines for accident prevention and training of peace officers in awareness of brain injury issues. These recommendations shall be made available for use by the department, project sites, other state agencies, and other appropriate entities.~~

~~(6) A recommended plan including financial requirements for expansion of the project to all regions of the state to be completed and issued by January 1, 2003.~~

~~(d)~~

4357.1. (a) The department may make grants from the funds in the Traumatic Brain Injury Fund, established in Section 4358, to service providers for the purpose of carrying out the programs detailed in this chapter.

(b) Contracts or grants awarded pursuant to this part and Part 4 (commencing with Section 4370) chapter, including contracts required for administration or ancillary services in support of programs, shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.

(c) Grants awarded to service providers pursuant to this chapter shall be subject to open competition every three years, unless the department elects to extend one or more grants and delay competition for those grants by a maximum of two additional years.

SEC. 10. Section 4357.2 of the Welfare and Institutions Code is repealed.

~~4357.2. (a) New sites shall be chosen from areas of the state that are not currently served by a site. Two new sites shall be located in the southern portion of the state and two new sites shall be located in the northern portion of the state. Of these, at least one site shall be located in a rural area. Nothing in this chapter shall prohibit a site from serving multiple counties. Implementation of the new sites shall be contingent upon funds appropriated by the Legislature and funds becoming available for this purpose.~~

~~(b) The department, in conjunction with the existing sites, shall develop guidelines and procedures for the coordinated continuum-of-care model and its component services. The existing sites shall assist the department in providing orientation, training, and technical assistance to the new sites.~~

~~(c) Up to 10 percent of funds allocated to new sites during their first year of operation may be expended for training, technical~~

1 assistance, and mentoring by existing sites and any other source
2 of assistance appropriate to the needs of the new sites. A plan and
3 budget for technical assistance and mentoring shall be included in
4 the proposals submitted by potential sites.

5 (d) Mentoring activities shall include, but not be limited to,
6 assisting new sites in refining their continuum-of-care model and
7 its component services, developing guidelines and procedures, and
8 providing advice in meeting the needs of traumatic brain injury
9 survivors and their caregivers, as well as carrying out community
10 outreach and networking with community groups and service
11 providers. Mentoring shall be carried out with the goal of
12 responding to the needs identified by the new sites, transferring
13 the knowledge and expertise of the existing sites, and helping each
14 new site to be successful in developing an effective program that
15 takes into account the needs, resources, and priorities of their local
16 community. Mentoring shall be coordinated with and overseen by
17 the department.

18 (e) Department staff and site directors shall meet quarterly as
19 a group for ongoing technical assistance, transfer of knowledge,
20 and refinement of the models of continuum of care.

21 (f) Existing and new sites may allocate up to 15 percent of
22 annual program funds to any appropriate caregiver resource center
23 to assist in caregiver services.

24 ~~SEC. 3.~~

25 *SEC. 11.* Section 4358.5 of the Welfare and Institutions Code
26 is amended to read:

27 4358.5. (a) Funds deposited into the Traumatic Brain Injury
28 Fund pursuant to paragraph (8) of subdivision (f) of Section 1464
29 of the Penal Code shall *may* be matched by federal vocational
30 rehabilitation services funds for implementation of the Traumatic
31 Brain Injury program pursuant to this chapter. However, this
32 matching of funds shall ~~be required~~ *occur* only to the extent it is
33 required by other state and federal law, and to the extent the
34 matching of funds would be consistent with the policies and
35 priorities of the department regarding funding.

36 (b) ~~The department shall seek and secure funding from available~~
37 ~~federal resources, including, but not limited to, Medicaid and drug~~
38 ~~and alcohol funds, utilizing the Traumatic Brain Injury Fund as~~
39 ~~the state's share for obtaining federal financial participation, and~~

1 shall seek any necessary waiver of federal program requirements
2 to maximize available federal dollars.

3 ~~SEC. 4.~~

4 *SEC. 12.* Section 4359 of the Welfare and Institutions Code is
5 repealed.

6 *SEC. 13. Section 14132.992 of the Welfare and Institutions*
7 *Code is amended to read:*

8 14132.992. (a) (1) By March 15, ~~2009~~ 2011, the department
9 shall submit to the federal Centers for Medicare and Medicaid
10 Services a home- and community-based services waiver application
11 pursuant to Section 1396n(c) of Title 42 of the United States Code,
12 or an amendment of the state plan for home- and community-based
13 services pursuant to Section 1396n(i) of Title 42 of the United
14 States Code, to serve at least 100 adults with acquired traumatic
15 brain injuries who otherwise would require care in a Medi-Cal
16 funded nursing facility or an intermediate care facility for persons
17 with developmental disabilities or, for the amendment of the state
18 plan, who would meet the eligibility criteria in Section 1396n(i).

19 (2) As authorized by Section 1396n(c)(3) and 1396n(i)(3) of
20 Title 42 of the United States Code, the waiver or amendment of
21 the state plan shall waive the statewide application of this section
22 as well as comparability of services so that waiver services may
23 be provided by one or more ~~of the sites~~ *service providers*
24 designated to provide services to persons with acquired traumatic
25 brain injury pursuant to ~~Section 4356~~ *Chapter 5 (commencing with*
26 *Section 4353) of Part 3 of Division 4.*

27 (3) The waiver services to be provided to eligible Medi-Cal
28 recipients shall include case management services, community
29 reintegration and supported living services, vocational supportive
30 services including prevocational services, neuropsychological
31 assessments, and rehabilitative services provided by ~~project sites~~
32 *service providers* currently serving persons with acquired traumatic
33 brain injuries pursuant to Chapter 5 (commencing with Section
34 4353).

35 (4) The waiver services to be provided shall include as a
36 habilitation service pursuant to Section 1396n(c)(5) of Title 42 of
37 the United States Code “extended supported employment services”
38 to support and maintain an individual with an acquired traumatic
39 brain injury in supported employment following that individual’s
40 transition from support provided as a vocational rehabilitation

1 service, including job coaching, by the State Department of
2 Rehabilitation pursuant to paragraphs (1) and (5) of subdivision
3 (a) of Section 19150.

4 (5) The waiver services to be provided shall include
5 rehabilitative therapies, including, but not limited to, occupational
6 therapy, physical therapy, speech therapy, and cognitive therapy,
7 that are different in kind and scope from state plan services.

8 (6) The waiver shall require an aggregate cost-effectiveness
9 formula be used.

10 (b) The development process of the home- and community-based
11 services waiver application or state plan amendment shall include
12 the solicitation of the opinions and help of the affected
13 communities, ~~including the working group members pursuant to~~
14 ~~Section 4357.1 and representatives of project sites~~ *service providers*
15 currently serving persons with acquired traumatic brain injuries
16 pursuant to Chapter 5 (commencing with Section 4353) of Part 3
17 of Division 4.

18 (c) The waiver or state plan amendment shall be implemented
19 only if the following conditions are met:

20 (1) Federal financial participation is available for the services
21 under the waiver or state plan amendment.

22 (2) Cost neutrality is achieved in accordance with the terms and
23 conditions of the waiver or state plan amendment and the
24 requirements of the federal Centers for Medicare and Medicaid
25 Services.

26 (3) State funds are appropriated, otherwise made available, or
27 both, for this waiver or state plan amendment, including funds for
28 staff to develop, implement, administer, monitor, and oversee the
29 waiver or state plan amendment.

30 (d) It is the intent of the Legislature that the home- and
31 community-based services waiver or state plan amendment
32 augment funds available to meet the needs of persons with acquired
33 traumatic brain injuries served by the participating ~~project sites~~
34 *service providers* in accordance with ~~subdivision (b) of Section~~
35 ~~4358.5 Chapter 5 (commencing with Section 4353) of Part 3 of~~
36 *Division 4.*